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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,235	03/19/2001	William S. Hurst	CRTS-5681 (1417A P 574)/1	9437

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EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,235

Applicant(s)

HURST ET AL.

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12 and 18-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 18-31, 34, 35 is/are rejected.
- 7) ☒ Claim(s) 22, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 24 is objected to because of the following informalities: "co-planer" is misspelling of "coplanar". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 24-26, 31, and 34-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 21 and 31, applicant inferentially claims the flexible container has a diagonal seam which make the claim indefinite. Regarding claims 24-26 and 34-35, applicant's recitation that "the first perimeter of the flexible container and the second perimeter of the box are substantially coplanar" is vague and indefinite since "coplanar" denotes lying in the same plane the flexible container and its perimeter lies above or within the perimeter of the box therefore their perimeter can never be coplanar as recited but they are rather parallel planes.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by UK patent publication 2,121,467A to Mackiewicz et al. Mackiewicz discloses hanger system (12, figure 6) connected to a rigid box (1, figure 1) and suspending or upwardly biasing a top portion of a flexible container (2) wherein the means to connected (12) the flexible container is spaced substantially away from the upper corner of the flexible container (note fig. 1-3, the corners of the bag 2a is not connected to the hanger 12).

Claims 18, 24, 25, 27, and 28 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Cox Jr.'695. Cox Jr. discloses a flexible container (19) disposed within a box (11) and supported by at least a corner of the box, wherein the first perimeter of the flexible container (see sag and wrinkles of bag at 13 along plane 14) appears to be greater than the perimeter of the box (11) and lying in parallel planes and a hanger (17) connected to top portion (23) of bag and biasing the top portion (23) upward.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox, Jr.'695. Cox Jr.'695 does not disclose the perimeter of the flexible container

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is within the range of 2-10 % greater than the perimeter of the rigid box. However, it would have been an obvious matter of mechanical expedient to provide for a flexible container of a perimeter at 2-10% greater than the perimeter of the rigid box.

Claims 29, 30, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox Jr.'695. Cox Jr. discloses a flexible container (19) disposed within a box (11) wherein the first perimeter of the flexible container (see sag and wrinkles of bag at 13 along plane 14) appears to be greater than the perimeter of the box (11) and lying in parallel planes, and a hanger (17) connected to top portion (23) of bag and biasing the top portion (23) upward. However, Cox, Jr. does not disclose the flexible container has a greater volume than the box. On the other hand, Cox does show the wrinkles as well as the opening of bag (23) extending out of flap (17). It appears Cox's bag could be of greater volume than the box volume. However, it would have been an obvious matter of design choice to provide for a larger bag to facilitate maximum volume is filled in the same size flexible container relative to any size of rigid boxes. Regarding claim 35, it would have been an obvious matter of mechanical expedient to provide for a flexible container of a perimeter at 2-10% greater than the perimeter of the rigid box.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK patent publication 2,121,467A to Mackiewicz et al in view of Love'668. Mackiewicz disclosed the basic features of applicant's invention except for the hanger as being elastic. Love teaches a using elastic cord (17) for suspending a flexible bag within a container for absorbing shock during filling (Col. 4, line 17). It would have been obvious

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to one of ordinary skill in the art to modify the hanger of Mackiewicz such that it is elastic to absorb shock during filling as taught to be desirable by Love.

Allowable Subject Matter

Claim 22, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21 and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 8/21/2002 have been fully considered but they are not persuasive. Applicant's argument against UK patent to Mackiewicz et al was that the bag is suspended and is not biased upward. Examiner fail to see the difference between the term "suspended" and "biased upward". The suspension action naturally biases the upper portion of the bag upward.

Applicant's arguments with respect to claims 12 and 18-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dow and Cote further demonstrate flexible bag within a container.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
November 18, 2002